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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,295	11/21/2003	Carl Berger	163.1.004	3011
7590 Allen R. Kipnes, Esq. WATOV & KIPNES, P.C. P.O. Box 247 Princeton Junction, NJ 08550			EXAMINER SCHLENTZ, NATHAN W	
			ART UNIT 1616	PAPER NUMBER
			MAIL DATE 03/03/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Examiner-Initiated Interview Summary</i>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Application No. 10/719,295</td> <td style="width: 50%; padding: 2px;">Applicant(s) BERGER, CARL</td> </tr> <tr> <td style="padding: 2px;">Examiner Nathan W. Schlientz</td> <td style="padding: 2px;">Art Unit 1616</td> </tr> </table>	Application No. 10/719,295	Applicant(s) BERGER, CARL	Examiner Nathan W. Schlientz	Art Unit 1616
Application No. 10/719,295	Applicant(s) BERGER, CARL				
Examiner Nathan W. Schlientz	Art Unit 1616				

All Participants:
 (1) Nathan W. Schlientz.
 (2) Allen R. Kipnes.

Status of Application: pending
 (3) ____
 (4) ____

Date of Interview: 25 February 2009 **Time:** 11:00

Type of Interview:
☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☒ No
 If Yes, provide a brief description: _____

Part I.

Rejection(s) discussed:
none

Claims discussed:
none

Prior art documents discussed:
Musser et al. (Nature, 2002, 416, 599-600)

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:
See Continuation Sheet

Part III.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.

/John Pak/
 Primary Examiner, Art Unit 1616

(Applicant/Applicant's Representative Signature – if appropriate)

Continuation of Substance of Interview including description of the general nature of what was discussed: The examiner called attorney Kipnes with a follow up question following the interview on 17 February 2009. The examiner directed attention to page 14, lines 2-15 of the instant specification wherein it teaches that a preferred embodiment of the invention is to treat the tobacco plant by contacting with an herbivore, such as *Helicoverpa zea*, for a sufficient time to reduce the nicotine content to levels at which the tobacco product produced from the plant becomes non-addictive to humans. The question asked by the examiner is whether this occurs in nature, because it appears that the specification teaches that allowing *H. zea* to feed on tobacco plants for a sufficient amount of time will naturally result in tobacco with non-addictive levels.

Attorney Kipnes argued that there is no evidence to suggest that this occurs in nature, and to the best of his knowledge there is no such thing as non-addictive tobacco plants occurring in the wild as a result of being fed on by *H. zea* or any other herbivore. Attorney Kipnes argued that based on the teachings of Musser et al., one of ordinary skill in the art would expect that when the tobacco plant is damaged by the caterpillar *H. zea*, it increases its production of nicotine. However, the *H. zea* regurgitates saliva that contains glucose oxidase, which counter acts the nicotine production resulting in nicotine levels in the tobacco plant that are the same as the level prior to damage by the caterpillar. Therefore, attorney Kipnes argues that one of ordinary skill in the art in view of the teachings of Musser et al. would expect that feeding by the caterpillar *H. zea* only results in nicotine levels that are the same as non-damaged tobacco plants.